In the High Court of Punjab and Haryana at Chandigarh.

F.A.O.No.3656 of 2005 (O&M).

Date of decision:29.8.2006.

Mohinder Kaur

...Appellant.

Versus

Bhajan Singh and others.

...Respondents.

...

Coram: Hon'ble Mr. Justice S. N. Aggarwal.

...

Present: Mr.Kanwaljit Singh Advocate for the appellant.

Mr. Y.M.Bhagirath, Advocate for the respondent Nos.1 and 2.

...

Judgment.

S. N. Aggarwal, J.

CM No.15758-CII of 2005.

This application has been filed for condonation of delay of 54 days in filing the appeal. Reasons have been given in the application which is supported by an affidavit. This application is accordingly accepted and the delay of 54 days in filing the appeal is condoned.

FAO No.3656 of 2005.

Amarjit Singh, respondent No.3 son of Mohinder Kaur appellant had taken loan for the purchase of a truck from Oriental Bank

of Commerce on 15.9.1981. Said Amarjit Singh failed to return the loan on which the Bank filed suit for recovery which was decreed. The appellant being the guarantor had to pay a sum of Rs.6,50,907/- to the Bank to satisfy the decree. However, the truck which was purchased by respondent No.3 was sold by him to Bhajan Singh,respondent No.1. The appellant filed the suit for the recovery of Rs.6,50,907/- with interest from respondent No.1 and his wife respondent No.2.

Along with the said suit, she filed an application for interim stay seeking to restrain respondent Nos.1 and 2 from alienating their property in any manner. The said application was dismissed by the learned trial Court vide impugned order dated 25.2.2005.

Hence, the present appeal.

Considered.

Amarjit Singh,respondent No.3 had taken loan from the Oriental Bank of Commerce. The appellant was the guarantor. Amarjit Singh had failed to refund the loan amount on which the suit was decreed against him and the appellant had to pay the decretal amount to the Oriental Bank of Commerce.

The case of the appellant herself is that her son Amarjit Singh respondent had sold the truck to Bhajan Singh respondent No.1 and respondent No.1 has transferred his entire land in favour of his wife,respondent No.2. Since the truck was sold to respondent No.1 by respondent No.3, therefore, prima-facie respondent Nos.1 and 2 are not liable or answerable to the appellant.

There is no illegality in the impugned order dated 25.2.2005 passed by the learned trial Court.

No merit.

Dismissed.

However, nothing said in this order shall affect the merits of the case.

August 29,2006. (S. N. Aggarwal)
Jaggi Judge